

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS Division 30—Division of Labor Standards Chapter 3—Prevailing Wage Law Rules

### EMERGENCY AMENDMENT

**8 CSR 30-3.060 Occupational Titles of Work Descriptions.** The division is amending subsections (8)(X) and (8)(Y).

*PURPOSE:* This amendment adds the work description language for “Marble Finisher,” “Terrazzo Finisher,” and “Tile Finisher” so that it is the same as that adopted by order of the Labor and Industrial Relations Commission. This amendment also modifies the headings used in the rule to reflect the division of the existing occupational titles into subclassifications.

*EMERGENCY STATEMENT:* This amendment implements new descriptions of work (occupational titles) for “Marble Finisher,” “Terrazzo Finisher,” and “Tile Finisher” applicable to public construction work as adopted by orders of the Labor and Industrial Relations Commission issued on June 10, 2014, in the matter of Objection Nos. 006-037 filed by the Bricklayers and Allied Craftworkers Administrative Council of Eastern Missouri and Objection Nos. 038-121 filed by the Bricklayers and Allied Craftworkers Local Union No. 15. The amendment will enable the Division of Labor Standards of the Missouri Department of Labor and Industrial Relations to collect wage information for these new occupational titles and to determine prevailing wage rates for this

type of work from that wage information to be included in Annual Wage Orders beginning in 2015. This amendment also modifies the headings used in the amendment to reflect the division of the existing occupational titles, *Terrazzo Worker-Marble Mason and Tile Setter*, into subclassifications.

This amendment must be implemented immediately to provide notice to contractors, unions, and other interested parties of the new occupational titles, to allow these interested parties to gather wage data applicable to the new titles to provide to the Division of Labor Standards, and to enable the division to determine the prevailing wage rates in each county for these new titles from the data provided and then include these rates in the next Annual Wage Order. Each year’s Annual Wage Order must be filed with the secretary of state by March 10, as provided in section 290.262.1 & .4, RSMo. The Annual Wage Order sets out the minimum wage rates that must be paid to workers in each occupational title in each county for their work on public construction projects in those counties during the following year. As a result, the Division of Labor Standards finds that an early effective date for this amendment is necessary to preserve the compelling governmental interest of establishment of an Annual Wage Order that reflects all recognized occupational titles and provides prevailing wage rates for those occupational titles. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Division of Labor Standards believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 7, 2014, becomes effective November 17, 2014, and expires on May 15, 2015.

(8) The occupational titles of work descriptions set forth here are as follows:

**(X) Terrazzo and Marble Occupational Titles—This subsection sets forth work descriptions for three (3) occupational titles related to terrazzo and marble work.**

*[(X)]1. Terrazzo Worker-Marble Mason—The [workers performing] work falling within the occupational title of work description for [terrazzo worker-marble mason] Terrazzo Worker-Marble Mason includes:*

*[1.]A. The installing of marble, mosaic, venetian enamel and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;*

*[2.]B. The preparing, cutting, layering or setting of metal, composition or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath or other reinforcement, where used in terrazzo work;*

*[3.]C. The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;*

*[4.]D. The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and*

(5.)E. The carving, cutting and setting of all marble, slate, including slate backboards, stone, albeeren, carrara, sanionyx, vitrolite and similar opaque glass, scagliola, marbleithic and all artificial, imitation or case marble of whatever thickness or dimension. This shall apply to all interior work, such as sanitary, decorative and other purposes inside of buildings of every description wherever required, including all polish, honed or sand finish;

2. Marble Finisher—The work falling within the occupational title of work description for Marble Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;

B. The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;

C. The supply and mixture of construction materials for Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;

D. The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;

E. The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;

F. The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and

G. The provision of assistance to Marble Mason with the following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble;

3. Terrazzo Finisher—The work falling within the occupational title of work description for Terrazzo Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on floors, base and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;

B. The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of pre-mixed materials and the distribution with shovel, rake, hoe or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;

C. The spreading of marble chips or other material over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to sur-

faces of installed terrazzo; the spreading of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders;

(Y) Tile Occupational Titles—This subsection sets forth work descriptions for two (2) occupational titles related to tile work.

[(Y)]1. Tile Setter—The work falling within the occupational title of work description for Tile Setter includes:

A. *[Applies to workers who apply]* The application of tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools and all places where tiles may be used to form a finished surface for practical use, sanitary finish or decorative purpose. (Tile includes all burned clay products, as used in the tile industry, either glazed or unglazed, all composition materials; all substitute materials in single units up to and including, fifteen inches by twenty inches by two inches (15" × 20" × 2") (except quarry tiles larger than nine inches by eleven inches (9" × 11")) and all mixtures in the form of cement, plastics and metals that are used as a finished surface.); *[The work falling within this occupational title of work description includes:]*

[1.]B. The cutting and shaping of tile with saws, tile cutters and biters; and

[2.]C. The positioning of tile and tapping it with a trowel handle to affix tile to plaster or adhesive base; and/.

2. Tile Finisher—The work falling within the occupational title of work description for Tile Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods for Tile Setter to install construction materials on floors and walls; the movement of tiles, tile setting tools, and work devices from storage area to installation site manually or using wheelbarrow;

B. The supply and mixture of materials for Tile Setter; the supply and mixture of construction materials for Tile Setter; the mixture of mortar and grout accordingly to standard formulas and request from Tile Setter using bucket, water hose, spatulas, and portable mixer; the modification of mixing, grouting, grinding, and cleaning procedures according to type of installation or material used; the supply to Tile Setter of mortar, using wheelbarrow and shovel; the application of grout between joints of installed tile, using grouting trowel; the application of grout; the cutting of installed tile;

C. The removal of excess grout from tile joints with a sponge and scraping of corners and crevices with a trowel; the application of caulk, sealers, acid, steam, or related agents to caulk, seal, or clean installed tile, using various application devices and equipment;

D. The wiping of surfaces of tile after grouting to remove grout residue and polish tile, using non-abrasive materials; the removal of Tile Setter materials and related debris from immediate work area; the cleaning of installation site, mixing and storage tools, and equipment, using water and various cleaning tools;

the storing of tile setting material machines, tools, and equipment; and

E. The provision of assistance to Tile Setter to secure position of metal lath, wire mesh, felt paper, Dur/rock or wonder-board prior to installation of tile; and

*AUTHORITY:* section 290.240.2., RSMo 2000. Original rule filed Sept. 15, 1992, effective May 6, 1993. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 7, 2014, effective Nov. 17, 2014, and expires May 15, 2015. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 10—Nursing Home Program**

**EMERGENCY AMENDMENT**

**13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates.** The division is adding paragraph (3)(A)18.

*PURPOSE:* This amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates by granting a one dollar and twenty-five cents (\$1.25) increase to the current per diem rate effective for dates of service beginning July 1, 2014.

*EMERGENCY STATEMENT:* The Department of Social Services, MO HealthNet Division, by rule and regulation, must define the reasonable costs, manner, extent, quantity, quality, charges and fees of medical assistance. Effective for dates of service beginning July 1, 2014, the appropriation by the General Assembly included additional funds to increase nursing facilities' and HIV nursing facilities' reimbursements to account for a trend adjustment for State Fiscal Year (SFY) 2015. The MO HealthNet Division is carrying out the General Assembly's intent by providing for a per diem increase to nursing facility and HIV nursing facility reimbursement rates through the implementation of a trend adjustment of one dollar and twenty-five cents (\$1.25) effective for dates of service beginning July 1, 2014. The trend adjustment is necessary to ensure that payments for nursing facility and HIV nursing facility per diem rates are in line with the funds appropriated for that purpose. There is a total of five hundred and three (503) nursing facilities and HIV nursing facilities currently enrolled in MO HealthNet which will receive a per diem increase to its reimbursement rate effective for dates of service beginning July 1, 2014. This emergency amendment will ensure payment for nursing facility and HIV nursing facility services to approximately twenty-four thousand (24,000) senior Missourians in accordance with the appropriation authority. For the State Fiscal Year 2015 payment to be made, a Medicaid State Plan Amendment was required to be submitted and approved by the Centers for Medicare and Medicaid Services (CMS). The State Plan Amendment was approved by CMS on October 14, 2014 but the proposed state regulation amendment will not be effective until January 30, 2015. This emergency amendment must be implemented on a timely basis to ensure that quality nursing facility and HIV nursing facility services continue to be provided to MO HealthNet participants in nursing facilities and HIV nursing facilities during state fiscal year 2015 in accordance with the appropriation authority. As a result, the MO HealthNet Division finds an immediate danger to public health, safety, and/or welfare and a compelling governmental interest, which requires emergency action. The MO HealthNet Division has a compelling governmental interest in providing continued cash flow for nursing facility and HIV nursing facility services. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States**

*Constitutions.* The MO HealthNet Division believes this emergency amendment is fair to all interested persons and parties under the circumstances. A proposed amendment covering this same material was published in the **Missouri Register** on August 15, 2014 (39 MoReg 1373-1375). The final order of rulemaking relating to that proposed amendment was filed with the Joint Committee on Administrative Rules on September 25, 2014, and was filed with the secretary of state on October 28, 2014. This emergency amendment was filed November 7, 2014, becomes effective November 17, 2014, and expires January 31, 2015.

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.